IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

RCRev..No. 140 of 2007

RCA.53/2002 of RENT CONTROL APPELLATE AUTHORITY, ALAPPUZHA
RCP.41/1997 of RENT CONTROL COURT, ALAPPUZHA
.....

REVISION PETITIONER/APPELLANT/COUNTER PETITIONER:

R.SELVARAJ, ARAVUKAD, HARIJAN COLONY,
PUNNAPRA VILLAGE, ALAPPUZHA.

BY ADV. SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN

RESPONDENT/RESPONDENT/PETITIONER:

S.N.D.P. SAKHA YOGAM NO.610,
PUNNAPRA EAST, REPRESENTED BY ITS
SECRETARY, P.SASIDHARAN, REMA SADANAM,
PUNNAPRA, ALAPPUZHA.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 05/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 140 of 2007

ORDER

Balachandran, J.

The tenant in R.C.P.No.41/97 on the file of the Rent Control Court, Alappuzha is the revision petitioner. The respondent filed petition for eviction against the petitioner under Sections 11 (2)(b), 11(3) and 11(4)(v) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). The Rent Control Court, after trial, found that the respondent is not entitled to an order of eviction under Sections 11 (2)(b) and 11(3) of the Act and dismissed the claim for eviction under those provisions, but allowed eviction under Section 11(4)(v) of the Act on the ground of cessation of occupation for more than six months immediately preceding filing of the petition for eviction. The petitioner challenged the said order of eviction in R.C.A.No.53/02 before the Rent

Control Appellate Authority, Alappuzha. The appellate authority dismissed the said appeal concurring with the findings of the Rent Control Court.

2. In this revision, filed impugning the correctness of the concurrent order of eviction passed by the authorities below, it is contended by the learned counsel for the petitioner that there is no convincing evidence to show that the tenant has ceased to occupy the scheduled building for the statutory period. However, it is not his case that cessation was not without reasonable cause. As regards cessation of occupation, there is the evidence of PW1, examined on behalf of the landlord and of PWs 2 and 3, who are the tenants of the adjoining shop rooms, even if Exhibits C1 and C2 ex parte commission reports are ignored. The petitioner has no case that PWs 2 and 3 are inimical towards him or that they had any axe to grind by getting him evicted. This, in fact, is

the second round of the proceedings, as vide judgment in R.C.A.No.23/99, the appellate authority set aside the order of eviction and remanded the matter to the Rent Control Court to enable the petitioner/tenant to adduce evidence to disprove the case of the landlord regarding cessation of occupation. Still, he did not adduce any evidence. Further, it is seen observed in the judgment in R.C.A.No.53/02 that the petitioner did not want the matter to be further remanded, as he does not desire to adduce any further evidence.

3. On going through the findings of the authorities below, we are convinced that evidence has been properly appreciated and findings have been entered into concurrently by the authorities below that there is cessation of occupation of the scheduled building for more than the statutory period immediately preceding filing of the rent control petition, as alleged by the respondent. The findings of fact so entered into concurrently

by the authorities below do not deserve to be interfered with in revision and this revision is only to the dismissed.

In the result, we dismiss this Rent Control Revision. No time is being granted to the petitioner/tenant to surrender vacant possession of the scheduled building, as eviction was ordered on the ground of cessation of occupation. The respondent shall take delivery of the scheduled building in execution of the order of eviction passed by the authorities below.

(J.B.Koshy, Judge)

5th June, 2007

(K.P.Balachandran, Judge)

tkv